

STATE OF VERMONT
DEPARTMENT OF EDUCATION

Special Education
Case #DP06-06

Due Process Hearing

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**

A Due Process Hearing Request was filed in this case by the parents on March 22, 2006 seeking placement of the student at the Linden Hill School in Northfield, Mass. On May 15, 2006 the school district's attorney and the family's attorney signed a factual stipulation supporting the student's placement at the Linden Hill for the 2006-2007 school year.

FINDING OF FACTS

1. The student is thirteen and one half years old and currently in the eighth grade. He has attended the Linden Hill School, a residential school for children with a Language Based Learning Disability, for the past three and one half years with the approval of the Vermont Department of Education.

2. The student has a Learning Disability evidenced by severe dyslexia and ADHD which have resulted in, among other things, social anxiety, self-critical attitude and oppositional behavior that have in turn aggravated his Learning Disability.

3. The various strategies employed by the district before the student was placed at Linden Hill, which included specific language programs, a tutor, substantial resource time and counseling, were increasingly unsuccessful.

4. At Linden Hill, the smaller classes and direct assistance have resulted in greater academic skills and reduced social anxiety for the student as well as enhancing his status within a disabled peer group.

5. Ninth grade is the final grade at Linden Hill. Preventing the student from completing the program and graduating from Linden Hill would be detrimental to his emerging self-esteem.

6. Built in to the ninth grade year at Linden Hill, is an extensive transition component that makes it possible for its pupils to move from a small, structured setting to the larger, more active, less structured, more diverse public high school environment. It would be detrimental to place the student in the district's high school (hereafter "high school") in the fall of 2006 without having participated in an adequate transition plan.

7. Although the high school has developed a language program that would address the student's language needs, the high school will not be able to meet some of his other needs. These include the appropriate amount of time he is instructed in the Lindamood Bell Program and integration with peers for his modified math social studies, science and English programs.

8. The high school program will not be able to address the student's severe social anxiety and peer reaction to his disability. Unlike Linden Hill, the high school does not include younger

children with whom the student, given his delayed emotional development, immaturity and small stature, has a tendency to interact.

9. The student's case manager, Jean Hodgkins, who has frequently observed the student at Linden Hill, has found that the school provides him with a very high quality of services. Ms. Hodgkins does not believe that the student is ready to leave Linden Hill.

10. Ms. Hodgkins believes it would be appropriate for the student to attend Linden Hill for another year, especially for him to gain maturity and size.

12. Other district personnel believe the district could provide the student with an appropriate academic program but, due to the student's unique needs, they have concerns about the high school's social skills assistance being as successful as the assistance provided at Linden Hill. The student is invested in his program at Linden Hill and removing him prematurely may have a negative effect.

13. The cost of the placing the student at Linden Hill for one year is \$44,000.00. The cost of providing the student with the components of the program he requires at the high school for a year would be \$45,386.00.

CONCLUSIONS OF LAW

A. State and federal law require that the student be provided with a free appropriate public education that meets his unique needs and will provide him with meaningful educational benefit. *Board of Educ. v. Rowley*, 458 US 176, 207 (1982). *Walczak v. Florida Union Free Sch. Dist.*, F.3d at 130 (2d Cir. 1998) (*quoting Rowley*, 458 U.S. at 192).

B. In determining whether a child needs to be removed from the regular classroom a number of factors are to be considered including the following: whether the child's needs can be met in the regular classroom with supplementary services; whether sufficient effort has been made to provide these services; whether, due to other factors such as the presence of the child having a negative effect on other children, curriculum modification is needed; and, whether the severity of the disability will result in the child receiving little or no benefit from being in the regular class. *Oberti v. Board of Education of Borough of Clementon Sch. Dist.*, 995 F2d 1204 (3d Cir. 1993).

C. Whether a child's educational program will provide meaningful benefit is an individual determination. Such factors as the detrimental effect of changing a student's current placement must be considered. *S.H. v. State-Operated Sch. Dist. of the City of Newark*, 336 F3d 260 (3rd Cir. 2003).

D. The findings of fact set forth above support the determination by the district and the parents that a program at the high school would not provide the student with the required meaningful educational benefit during the 2006-2007 school year.

E. The district and the parents in this case have met the requirements of the law in their determination of the student's need to be removed from the regular classroom and placed in a residential school.

ORDER

The student's placement for the 2006-2007 school year shall be the Linden Hill School.

Dated at Hartland, Vermont this 25th day of May 2006.

Catherine C. Stern
Hearing Officer